

California Fair Political Practices Commission

November 6, 1987

H. G. Callowhill
Director, Castaic Lake Water Agency
27546 Catala Avenue
Saugus, CA 91350

Re: Your Request for
Informal Assistance
Our File No. I-87-253

Dear Mr. Callowhill:

You have requested assistance concerning a possible conflict of interest between your position as an elected director of the Castaic Lake Water Agency and a city council member. Your question was prompted by an opinion in a local newspaper stating that you could not hold both positions simultaneously.

Your question concerns the common law doctrine of incompatible offices, rather than conflicts of interest under the Political Reform Act.^{1/} Questions about incompatible offices should be directed to your local county counsel or the Attorney General. Enclosed are two Attorney General's opinions which address situations similar to yours. (37 Ops. Cal. Atty. Gen. 21; 64 Ops. Cal. Atty. Gen. 288.) Also enclosed is an article from the September 1985 Commission Bulletin which cites additional Attorney General's opinions on the subject of incompatible offices.

The Political Reform Act addresses conflicts of interest resulting from official's private economic interests. The fact that an official receives salary from a governmental agency or holds public office or public employment generally is not a basis for disqualification under the Political Reform Act. (See Sections 87100 and 87103.) For your information, we have enclosed a pamphlet which summarizes the conflict of interest laws of the Political Reform Act.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

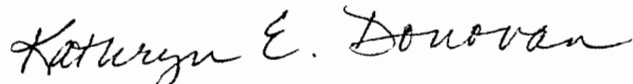
Mr. Callowill
November 6, 1987
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Your letter also contains questions concerning other public officials and their potential conflicts of interest. We do not provide advice to a third party whose request is not authorized by the official whose duties are in question. (Regulation 18329(b).)

If you have any questions concerning this letter, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

By: Kathryn E. Donovan
Counsel, Legal Division

DMG:KED:mek

27546 CATALA AVE.
SAUGUS CA. 91350
October 3, 1987

FAIR POLITICAL PRACTICE COMMISSION
428 J STREET
SACRAMENTO CA. 95804

The residents of the Santa Clarita Valley will be going to the poles on November 3rd to decide if a city should or should not be formed. There are 24 candidates running for the five city council seats that are up for election and two of the candidates need an opinion as to whether the conflict of interest code applies to them or not.

1. I am a three time elected member of the Castaic Lake Water Agency Board of Directors. Last year the legislature passed AB 4175 which increased the the board from 7 elected members to a total of 11 members, 7 elected and 4 appointed, one appointment from each of the 4 local water purveyors. I am running for one of the 5 seats on the new city council and an opinion in the local paper was that if elected I would have to resign my seat on the Water Board because of a conflict of interest. It was also the opinion that if one of the purveyors was running that there would not be a conflict in this case because they are appointed not elected.

This opinion seems wrong to me because as an elected director I have to go before the voters every 4 years to get reelected. The purveyors on the other hand can appoint themselves every 4 years as long as they want to. Also looking over the last 10 years on the CLWA Board I cannot remember when I would have had a conflict of interest with a city issue in any decisions we voted on.

2. The second case is another candidate who has had County Council and several other opinions that state she is not in conflict with her present job. Mrs. JoAnne Darcy is the Field Deputy for Supervisor Antonovich in our area. She has been carrying out the programs of her supervisor for 7 years, many of these programs are the reason for forming a new city. If elected to the City Council she will have to negotiate contracts with the County Fire Dept., County Sheriff, Parks & Recreation etc. It is Darcy's contention that she has no control over these departments even though her boss has. However over the years she has dealt directly with these departments without going through her boss.

Also some projects that her boss wants are of long duration and suddenly she is voting on this project as a City Council Person which is in opposition to the efforts she has been following for her Supervisor. The contractors are building all around the periphery of the new city under County

jurisdiction and inside the new City under the new city jurisdiction. It seems that the decision of conflict would be left to Darcy to make and the City would not even know there basically was a conflict. Darcy will still be attending the regular staff meetings of the supervisor. Is she going to be excused if there is a discussion on some project that the City is also discussing but with a different conclusion in mind? I could go on and on but I think you see what a large number of people are thinking.

I also want you to know that no one is questioning her ability, qualifications, honesty, integrity etc. because she is well liked and respected in the community.

As you know the November elections are fast approaching and this conflict should be resolved for both of us as soon as possible.

Sincerely,



Director Castaic Lake Water Agency
Candidate for the new City of Santa Clarita



California Fair Political Practices Commission

October 14, 1987

H. G. Callowhill, Director
Castaic Lake Water Agency
27546 Catala Avenue
Saugus, CA 91350

Re: 87-253

Dear Mr. Callowhill:

Your letter requesting advice under the Political Reform Act was received on October 9, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Kathryn Donovan, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths
General Counsel

DMG:plh